

6.0 INITIAL REGULATORY FLEXIBILITY ANALYSIS

6.1 Introduction

This Initial Regulatory Flexibility Analysis (IRFA) evaluates alternative regulatory actions that would change the way the annual harvest specifications are determined for the groundfish fisheries managed by the Federal government in the GOA and the BSAI. This IRFA examines the impacts of the alternative actions on small fishing entities, and meets the statutory requirements of the Regulatory Flexibility Act (RFA) of 1980, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 (5 U.S.C. 601-612).

6.2 The purpose of an IRFA

The Regulatory Flexibility Act (RFA), first enacted in 1980, was designed to place the burden on the government to review all regulations to ensure that, while accomplishing their intended purposes, they do not unduly inhibit the ability of small entities to compete. The RFA recognizes that the size of a business, unit of government, or nonprofit organization frequently has a bearing on its ability to comply with a Federal regulation. Major goals of the RFA are: (1) to increase agency awareness and understanding of the impact of their regulations on small business, (2) to require that agencies communicate and explain their findings to the public, and (3) to encourage agencies to use flexibility and to provide regulatory relief to small entities. The RFA emphasizes predicting impacts on small entities as a group distinct from other entities and on the consideration of alternatives that may minimize the impacts while still achieving the stated objective of the action.

On March 29, 1996, President Clinton signed the Small Business Regulatory Enforcement Fairness Act. Among other things, the new law amended the RFA to allow judicial review of an agency's compliance with the RFA. The 1996 amendments also updated the requirements for a final regulatory flexibility analysis, including a description of the steps an agency must take to minimize the significant economic impact on small entities. Finally, the 1996 amendments expanded the authority of the Chief Counsel for Advocacy of the Small Business Administration (SBA) to file *amicus* briefs in court proceedings involving an agency's violation of the RFA.

In determining the scope, or 'universe', of the entities to be considered in an IRFA, NMFS generally includes only those entities that can reasonably be expected to be directly regulated by the proposed action. If the effects of the rule fall primarily on a distinct segment, or portion thereof, of the industry (e.g., user group, gear type, geographic area), that segment would be considered the universe for the purpose of this analysis. NMFS interprets the intent of the RFA to address negative economic impacts, not beneficial impacts, and thus such a focus exists in analyses that are designed to address RFA compliance.

Data on cost structure, affiliation, and operational procedures and strategies in the fishing sectors subject to the proposed regulatory action are insufficient, at present, to permit preparation of a "factual basis" upon which to certify that the preferred alternative does not have the potential to result in "significant adverse impacts on a substantial number of small entities" (as those terms are defined under RFA).

Because, based on all available information, it is not possible to ‘certify’ this outcome, should the proposed action be adopted, a formal IRFA has been prepared and is included in this package for Secretarial review.

6.3 What is required in an IRFA?

Under 5 U.S.C., Section 603(b) of the RFA, each IRFA is required to contain:

- A description of the reasons why action by the agency is being considered;
- A succinct statement of the objectives of, and the legal basis for, the proposed rule;
- A description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply (including a profile of the industry divided into industry segments, if appropriate);
- A description of the projected reporting, record keeping and other compliance requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record;
- An identification, to the extent practicable, of all relevant Federal rules that may duplicate, overlap or conflict with the proposed rule;
- A description of any significant alternatives to the proposed rule that accomplish the stated objectives of the proposed action, consistent with applicable statutes, and that would minimize any significant economic impact of the proposed rule on small entities. Consistent with the stated objectives of applicable statutes, the analysis shall discuss significant alternatives, such as:
 1. The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;
 2. The clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities;
 3. The use of performance rather than design standards;
 4. An exemption from coverage of the rule, or any part thereof, for such small entities.

6.4 What is a small entity?

The RFA recognizes and defines three kinds of small entities: (1) small businesses, (2) small non-profit organizations, and (3) small government jurisdictions.

Small businesses. Section 601(3) of the RFA defines a ‘small business’ as having the same meaning as ‘small business concern’ which is defined under Section 3 of the Small Business Act. ‘Small business’ or ‘small business concern’ includes any firm that is independently owned and operated and not dominant in its field of operation. The SBA has further defined a “small business concern” as one “organized for profit, with a place of business located in the United States, and which operates

primarily within the United States or which makes a significant contribution to the U.S. economy through payment of taxes or use of American products, materials or labor...A small business concern may be in the legal form of an individual proprietorship, partnership, limited liability company, corporation, joint venture, association, trust or cooperative, except that where the firm is a joint venture there can be no more than 49 percent participation by foreign business entities in the joint venture.”

The SBA has established size criteria for all major industry sectors in the United States, including fish harvesting and fish processing businesses. A business involved in fish harvesting is a small business if it is independently owned and operated and not dominant in its field of operation (including its affiliates) and if it has combined annual receipts not in excess of \$3.5 million for all its affiliated operations worldwide. A seafood processor is a small business if it is independently owned and operated, not dominant in its field of operation, and employs 500 or fewer persons on a full-time, part-time, temporary, or other basis, at all its affiliated operations worldwide. A business involved in both the harvesting and processing of seafood products is a small business if it meets the \$3.5 million criterion for fish harvesting operations. Finally a wholesale business servicing the fishing industry is a small business if it employs 100 or fewer persons on a full-time, part-time, temporary, or other basis, at all its affiliated operations worldwide.

The SBA has established “principles of affiliation” to determine whether a business concern is “independently owned and operated.” In general, business concerns are affiliates of each other when one concern controls or has the power to control the other, or a third party controls or has the power to control both. The SBA considers factors such as ownership, management, previous relationships with or ties to another concern, and contractual relationships, in determining whether affiliation exists. Individuals or firms that have identical or substantially identical business or economic interests, such as family members, persons with common investments, or firms that are economically dependent through contractual or other relationships, are treated as one party with such interests aggregated when measuring the size of the concern in question. The SBA counts the receipts or employees of the concern whose size is at issue and those of all its domestic and foreign affiliates, regardless of whether the affiliates are organized for profit, in determining the concern’s size. However, business concerns owned and controlled by Indian Tribes, Alaska Regional or Village Corporations organized pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601), Native Hawaiian Organizations, or Community Development Corporations authorized by 42 U.S.C. 9805 are not considered affiliates of such entities, or with other concerns owned by these entities solely because of their common ownership.

Affiliation may be based on stock ownership when (1) A person is an affiliate of a concern if the person owns or controls, or has the power to control 50 percent or more of its voting stock, or a block of stock which affords control because it is large compared to other outstanding blocks of stock, or (2) If two or more persons each owns, controls or has the power to control less than 50 percent of the voting stock of a concern, with minority holdings that are equal or approximately equal in size, but the aggregate of these minority holdings is large as compared with any other stock holding, each such person is presumed to be an affiliate of the concern.

Affiliation may be based on common management or joint venture arrangements. Affiliation arises where one or more officers, directors or general partners controls the board of directors and/or the management of another concern. Parties to a joint venture also may be affiliates. A contractor and subcontractor are treated as joint venturers if the ostensible subcontractor will perform primary and vital requirements of a contract or if the prime contractor is unusually reliant upon the ostensible subcontractor. All requirements of the contract are considered in reviewing such relationship, including contract management, technical responsibilities, and the percentage of subcontracted work.

Small organizations The RFA defines “small organizations” as any not-for-profit enterprise that is independently owned and operated and is not dominant in its field.

Small governmental jurisdictions The RFA defines small governmental jurisdictions as governments of cities, counties, towns, townships, villages, school districts, or special districts with populations of less than 50,000.

6.5 What is this action?

Detailed descriptions of each alternative analyzed in this EA/RIR/IRFA can be found in Section 2.1.⁴³ The management alternatives and an option that may be implemented with any alternative are:

Alternative 1: Status Quo (NO ACTION ALTERNATIVE).

Alternative 2: Eliminate publication of interim specifications. Issue Proposed and Final Specifications Prior to Start of the Fishing Year. (Preliminary Preferred Alternative) Option: For the GOA and BSAI target species on a biennial survey schedule, set harvest specifications biennially.

Alternative 3: Issue Proposed and Final Harvest Specifications based on an alternate fishing year schedule. (July 1-June 30) Option 1: Set sablefish TAC on a January through December schedule. Option 2: Reschedule the December Council Meeting for January.

Alternative 4: Use Stock Assessment Projections for biennial harvest specifications. For the BSAI and GOA set the annual harvest specifications based on the most recent stock assessment and set harvest specifications for the following year based on projected OFL and ABC values. Option 1: Set PSC limits annually. Option 2: Set PSC limits every two years based on regulations and projected values or rollover from previous year

These options may be implemented with any of the above alternatives:

Option A: Abolish TAC Reserves.

⁴³Alternatives considered, but not analyzed in this EA/RIR/IRFA are listed in Section 2.3.

Option B: Update FMP language to incorporate new harvest specifications administrative process and to remove references to foreign fishing.

6.6 Reason for considering the proposed action

The reasons for the proposed action are discussed in detail in Sections 1.3, 1.6, and 5.4 of this EA/RIR/IRFA. In brief, the status quo provides a very compressed period of time in which to develop and implement harvest specifications for the coming year. The key biomass survey data only becomes available in September and October. The fishing year begins on the following January 1. This leaves only a short time to assess the survey data and update fishery models, obtain peer review of this work, obtain the input from the Council's SSC and AP, develop the Council's recommendations, provide for notice and comment, publish a final rule, and meet the APA requirement for a 30 day period between publication of a final rule and its effective date. The alternatives considered in this EA/RIR/IRFA improve this process in different ways.

6.7 Objectives of, and legal basis for, the proposed action

The objectives of the proposed action are discussed in detail in Sections 1.6, and 5.4 of this EA/RIR/IRFA. In summary, they are to: (1) manage fisheries based on best scientific information available, (2) provide for adequate prior public review and comment to the Secretary on Council recommendations, (3) provide for additional opportunity for Secretarial review, (4) minimize unnecessary disruption to fisheries and public confusion, and (5) promote administrative efficiency.

The legal basis for the proposed action was discussed in Section 1.0 of this EA/RIR/IRFA and in Section 5.3. In summary, the National Marine Fisheries Service manages the U.S. groundfish fisheries of the Gulf of Alaska management area in the Exclusive Economic Zone under the Fishery Management Plan (FMP) for that area. The North Pacific Fishery Management Council prepared the FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations implement the FMPs at §50 CFR part 679. General regulations that also pertain to U.S. fisheries appear at subpart H of §50 CFR part 600.

6.8 Number and description of small entities affected by the proposed action

What are the regulated entities?

This action will change the process by which the annual groundfish ABC, OFL, and TAC levels will be determined. The entities regulated by this action are those entities that harvest groundfish in the BSAI and GOA. These entities include the groundfish catcher vessels and catcher/processor vessels active in these areas. It also includes organizations to whom direct allocations of groundfish are made. In the BSAI, this includes the CDQ groups and the AFA fishing cooperatives.

Number of small regulated entities

Table 6.8-1 shows the estimated numbers of small and large entities in the BSAI and GOA groundfish fisheries. The reasoning behind these estimates is summarized in the paragraphs which follow the table.

Table 6.8-1 Estimated numbers of small entities in the BSAI and GOA groundfish fisheries

Fleet segment	Number small entities	Number large entities	Total number of entities
Catcher vessels	1,353	13 (70 vessels)	1,366
Catcher processors	33	46 (57 vessels)	79
Motherships	0	3	3
Shoreside processors	36	13 (32 plants)	49
CDQ groups	6	0	6
Notes: In some cases, the number of entities is smaller than the number of vessels or shoreplants because at least some entities have multiple vessels or plants. The estimated numbers of vessels and plants have been placed in parentheses. Catcher vessel and catcher/processor estimates prepared from fishtickets, weekly processor reports, product price files, and intent-to-operate listing. The methodology used probably overstates the numbers of small entities. Shoreside processors prepared by comparing a list of processors producing groundfish in 2000 with data on monthly employment by processing firm in 2000 obtained from Alaska Department of Labor. All CDQ groups are non-profits and are therefore treated as small.			

Fishing vessels, both catcher vessels and catcher/processors, are small if they gross less than \$3.5 million in a year. Table 6.8-2 provides estimates of the numbers of catcher vessels and catcher/processors with less than \$3.5 million in gross revenues from groundfish fishing in the BSAI and GOA.⁴⁴ Estimates of the numbers of vessels are provided by year and gear type from 1996 to 2000.⁴⁵ Estimates are also broken out for the GOA, the BSAI, and for all of Alaska. Table 6.8-3, provides similar information for catcher vessels and catcher/processors grossing more than \$3.5 million.

⁴⁴The tables tend to overstate the number of small catcher vessels and catcher/processors. One important reason is that the tables only consider revenues from groundfish fishing in Alaska. They do not consider revenues that these vessels may have earned from fishing for other species or from fishing in other areas. In addition, the SBA small entity criteria state that an entity's affiliations should be considered in determining whether or not an entity is small. In many cases vessels are owned by larger firms, or multiple vessels are owned by a single person or firm. These affiliation issues are not reflected in the counts in Tables 6.8-2 and 6.8-3. Catcher/processor affiliations are addressed in the text.

⁴⁵The product price information that would permit estimates of gross revenues for 2001 is not yet (May 2002) available.

Table 6.8-2 indicates that, in 2000, there were 1,264 small catcher vessels in the GOA and 301 in the BSAI. There were 1,422 small vessels in total. These numbers suggest that 143 vessels must have operated in both the BSAI and the GOA. Table 6.8-2 implies that each of the small catcher vessels is treated as a separate small entity. This may overstate the number of separate entities since there is probably not a strict one-to-one correspondence between vessels and entities; some persons or firms may ⁴⁶own more than one vessel.

It is possible to draw on analysis done recently for the American Fisheries Act amendments (61/61/13/8) to add somewhat more precision to the estimates of small catcher vessel entities in the BSAI (NMFS 2002). The FRFA prepared for those amendments provides the most detailed current picture of the affiliations and sizes of the catcher vessel entities active in the BSAI pollock fisheries. This FRFA reports that 112 catcher vessels were active in the pollock fisheries covered by the American Fisheries Act. 100 of these delivered to inshore processing plants, 7 delivered to catcher/processors offshore, and 5 delivered only to motherships (a total of 20 delivered to motherships, but 15 of these also delivered to onshore processors and these 15 are included here with the onshore processing group). While Table 6.8-2 suggests that all but one of these had gross revenues under \$3.5 million, the FRFA indicates that 69 of them had affiliations with large entities and should be considered large under the SBA criteria. (NMFS 2002, pages 4-176 to 4-181) Adjusting the numbers of small entities in light of these considerations, the number for the BSAI drops from 301 to 232 and the total for the BSAI and GOA drops from 1,422 to 1,353. The change in the GOA alone can't be determined.

The number of large catcher vessel entities from Table 6.8-1 is 1. In addition, the 69 pollock catcher vessels determined to be large based on their affiliations in the AFA FRFA were associated with an estimated 12 entities.⁴⁷ (NMFS 2002, pages 4-176 to 4-181). Thus the total number of large catcher vessel entities is estimated to be 13.

Table 6.8-2 indicates that, in 2000, there were 16 small catcher/processors in the GOA and 31 in the BSAI. There were 33 small catcher/processors in total. These numbers suggest that 14 catcher/processors must have operated in both the BSAI and the GOA. Table 6.8-2 implies that each of the small catcher/processors is treated as a separate small entity. This may overstate the number of separate entities since there is probably not a strict one-to-one correspondence between vessels and entities; some persons or firms may ⁴⁸own more than one vessel. The AFA FRFA used above for

⁴⁶This total of 69 catcher vessels affiliated with large entities is made up of 63 vessels delivering inshore, 2 of those delivering to catcher/processors, and 4 of those delivering to motherships. (NMFS 2002, pages 4-176 to 4-181)

⁴⁷This estimate is not provided in the AFA FRFA, but is inferred from information contained in it. The 63 large catcher vessels delivering to inshore cooperatives were affiliated with seven large entities. The two delivering to catcher/processors and the four delivering only to motherships were each assumed to be affiliated with a separate entity (except that there were only three motherships so that there could be no more than three large entities in that case). (NMFS 2002, pages 4-176 to 4-181)

⁴⁸This total of 69 catcher vessels affiliated with large entities is made up of 63 vessels delivering inshore, 2 of those delivering to catcher/processors, and 4 of those delivering to motherships. (NMFS 2002, pages 4-176 to 4-

the catcher vessel analysis indicates that in 2000, 20 large catcher/processors owned by 9 companies were authorized to fish for pollock in the BSAI under the AFA. (NMFS 2002, pages 4-176 to 4-181) For the purposes of this IRFA, there were an estimated 33 small catcher/processor entities, and 46⁴⁹ large entities, for a total of 79 total catcher/processor entities. These may be underestimates of the numbers of large entities, and overestimates of the numbers of small entities, for the reasons discussed above in the catcher vessel paragraph.

The estimates of large and small shoreside processors in Table 6.8-1 were made by comparing a list of processors and the gross revenues each generated from groundfish products in 2000, with data from the Alaska Department of Labor on numbers of employees per month for each processing facility. The employees data counted each employee, treating part-time and full-time employees alike. If a plant employed more than 500 persons in any month it was considered to be a large plant. Multiple plants that could be connected to a single processing firm were treated as a single entity in the counts. This procedure may overstate the number of small entities somewhat, since there are many interconnections between processing facilities in Alaska, and they are not well known.

The three motherships are believed to be large entities. The six Community Development Quota (CDQ) groups are treated as small entities because they are non-profit entities supporting the community development objectives of 65 Western Alaska communities.

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⁴⁹46 large entities = (57 vessels with gross revenues over \$3.5 million) minus (20 vessel affiliated with companies) plus (the nine companies with which they were affiliated).

Table 6.8-2 Number of vessels that caught or caught and processed less than \$3.5 million ex-vessel value or product value of groundfish by area, catcher type and gear, 1996-2000.

	Gulf of Alaska			Bering Sea and Aleutian			All Alaska		
	Catcher Vessels	Catcher process	Total	Catcher Vessels	Catcher process	Total	Catcher Vessels	Catcher process	Total
1996									
All gear	1190	30	1220	311	52	363	1317	55	1372
H & L	984	23	1007	114	35	149	1015	38	1053
Pot	146	1	147	88	15	103	203	15	218
Trawl	152	7	159	116	8	124	203	9	212
Oth. & unk.	4	1	5	0	0	0	4	1	5
1997									
All gear	1186	29	1215	264	51	315	1265	52	1317
H & L	949	19	968	94	35	129	961	36	997
Pot	145	1	146	74	9	83	191	9	200
Trawl	166	9	175	100	10	110	194	10	204
Oth. & unk.	24	0	24	0	0	0	24	0	24
1998									
All gear	1111	18	1129	226	40	266	1187	40	1227
H & L	865	14	879	72	29	101	883	29	912
Pot	170	0	170	71	7	78	215	7	222
Trawl	164	4	168	102	6	108	197	6	203
Oth. & unk.	35	0	35	0	0	0	35	0	35
1999									
All gear	1164	29	1193	274	31	305	1272	34	1306
H & L	905	16	921	75	18	93	929	21	950
Pot	204	10	214	89	12	101	258	12	270
Trawl	154	3	157	116	4	120	194	4	198
Oth. & unk.	21	1	22	0	0	0	21	1	22
2000									
All gear	1264	16	1280	301	31	332	1422	33	1455
H & L	1011	8	1019	105	18	123	1050	19	1069
Pot	252	4	256	91	11	102	304	12	316
Trawl	127	4	131	113	6	119	205	7	212
Oth. & unk.	21	0	21	0	1	1	21	1	22

Note: Includes only vessels that fished part of Federal TACs.

Source: Fishtickets, weekly processor reports, product price files, NMSF permits.
National Marine Fisheries Service, P.O. Box 15700, Seattle, WA 98115-0070.

Table 6.8-3 Number of vessels that caught or caught and processed more than \$3.5 million ex-vessel value or product value of groundfish by area, catcher type and gear, 1996-2000.

	Gulf of Alaska			Bering Sea and Aleutian			All Alaska		
	Catcher Vessels	Catcher process	Total	Catcher Vessels	Catcher process	Total	Catcher Vessels	Catcher process	Total
1996									
All gear	1	33	34	2	62	64	2	62	64
H & L	0	4	4	0	9	9	0	9	9
Trawl	1	29	30	2	53	55	2	53	55
1997									
All gear	1	21	22	1	56	57	1	56	57
H & L	0	4	4	0	8	8	0	8	8
Pot	0	0	0	0	1	1	0	1	1
Trawl	1	17	18	1	48	49	1	48	49
1998									
All gear	0	25	25	0	59	59	0	59	59
H & L	0	5	5	0	14	14	0	14	14
Trawl	0	20	20	0	44	44	0	44	44
Oth. & unk.	0	0	0	0	2	2	0	2	2
1999									
All gear	0	28	28	0	57	57	0	57	57
H & L	0	13	13	0	21	21	0	21	21
Pot	0	1	1	0	3	3	0	3	3
Trawl	0	14	14	0	36	36	0	36	36
Oth. & unk.	0	0	0	0	1	1	0	1	1
2000									
All gear	0	26	26	1	57	58	1	57	58
H & L	0	12	12	0	25	25	0	25	25
Pot	0	0	0	0	1	1	0	1	1
Trawl	0	14	14	1	33	34	1	33	34

Note: Includes only vessels that fished part of Federal TACs.

Source: Fishtickets, weekly processor reports, NMFS permits, annual processor survey.
National Marine Fisheries Service, P.O. Box 15700, Seattle, WA 98115-0070.

Description of small regulated entities

Section 5.6 of this EA/RIR/IRFA provides a description of the fishery participants. The section also lists other reports with detailed descriptions of the fishery. This section focuses on the average revenues of small entities, absolutely, and in comparison with the revenues of large entities.

Tables 6.8-4 and 6.8-5 provide estimates of average gross revenues from groundfish production in the BSAI and GOA for small and for large vessels.⁵⁰ Considering activity in both the BSAI and the GOA, small catcher vessels grossed an average of about \$170,000 in 2000. This average conceals variation by fishery management area and gear type. Small hook and line gear vessels (longline and jig) in the BSAI had the smallest average gross revenues at about \$30,000, while small trawlers in the BSAI had the largest at \$920,000. The overall average gross revenues for all small vessels active in the GOA were \$100,000, while the overall average gross revenues for all small vessels active in the BSAI was \$380,000. Corresponding average gross revenues for large entities for these gear types and areas may be found in Table 6.8-5.

Catcher/processors carry the equipment and personnel they need to process the fish that they themselves catch. In some cases catcher/processors will also process fish harvested for them by catcher vessels and transferred to them at sea. There are many types of catcher/processors operating in the BSAI and GOA groundfish fisheries. They are distinguished by target species, gear, products, and vessel size. The 33 small catcher/processor vessels had aggregate first wholesale gross revenues of about \$46 million in 2000; average revenues were about \$1.4 million. The 57 large catcher/processor vessels had aggregate first wholesale gross revenues of about \$606 million in 2000; average revenues were about \$10.6 million. (gross revenue data, Hiatt T., pers. comm 2-28-02.)

There were an estimated 36 small processors. These small processors averaged gross revenues of \$902,000 from groundfish products; these processors also averaged \$5.2 million from all fish products. The 13 large processors averaged \$43.5 million from groundfish products, and \$79.1 million from all fish products. (Hiatt T., pers. comm. 9-27-01)

Through the Community Development Quota (CDQ) program, the North Pacific Fishery Management Council and NMFS allocate a portion of the BSAI groundfish, prohibited species, halibut and crab TAC limits to 65 eligible Western Alaska communities. These communities work through six non-profit CDQ Groups to use the proceeds from the CDQ allocations to start or support commercial fishery activities that will result in ongoing, regionally based, commercial fishery or related businesses. The CDQ program began in 1992 with the allocation of 7.5 percent of the BSAI pollock TAC. The fixed gear halibut and sablefish CDQ allocations began in 1995, as part of the halibut and sablefish Individual Fishing Quota Program. In 1998, allocations of 7.5 percent of the remaining groundfish TACs, 7.5 percent of the prohibited species catch limits, and 7.5 percent of the crab guidelines harvest levels were added to the CDQ program. At this time, the CDQ share of the pollock TAC was increased to 10 percent. The CDQ groups are reported to have had gross revenues

⁵⁰Since these estimates only include information on gross revenues from groundfish fishing, these are low estimates of the total gross revenues for these entities.

of about \$63.2 million in 2000 (Alaska Department of Community and Economic Development 2001, page 25); average gross revenues were thus about \$10.5 million.

Table 6.8-4 Average revenue of vessels that caught or caught and processed less than \$3.5 million ex-vessel value or product value of groundfish by area, catcher type and gear, 1996-2000. (\$ millions)

	Gulf of Alaska			Bering Sea and Aleutian			All Alaska		
	Catcher Vessels	Catcher process	Total	Catcher Vessels	Catcher process	Total	Catcher Vessels	Catcher process	Total
1996									
All gear	.08	.55	.10	.30	1.23	.43	.15	1.45	.20
H & L	.06	.47	.07	.02	1.32	.33	.06	1.50	.12
Pot	.05	-	.05	.08	.49	.14	.07	.49	.10
Trawl	.21	.72	.23	.71	1.29	.75	.56	1.71	.61
Oth. & unk.	.00	-	.00	-	-	-	.00	-	.00
1997									
All gear	.09	.59	.10	.38	1.23	.52	.17	1.53	.22
H & L	.06	.56	.07	.03	1.44	.41	.07	1.69	.13
Pot	.06	-	.06	.07	.40	.11	.07	.40	.09
Trawl	.23	.67	.25	.93	.90	.93	.67	1.51	.71
Oth. & unk.	.00	-	.00	-	-	-	.00	-	.00
1998									
All gear	.07	.62	.08	.31	1.34	.46	.13	1.61	.17
H & L	.05	.55	.05	.02	1.26	.37	.05	1.52	.09
Pot	.05	-	.05	.05	.83	.12	.06	.83	.08
Trawl	.19	.85	.21	.63	1.86	.70	.49	2.43	.54
Oth. & unk.	.00	-	.00	-	-	-	.00	-	.00
1999									
All gear	.08	.49	.09	.35	.96	.41	.15	1.25	.18
H & L	.05	.46	.06	.02	1.00	.21	.05	1.21	.07
Pot	.08	.55	.10	.09	.87	.18	.09	1.33	.15
Trawl	.23	-	.23	.75	.30	.74	.63	.30	.63
Oth. & unk.	.00	-	.00	-	-	-	.00	-	.00

Table 6.8-4 (continued)

	Gulf of Alaska			Bering Sea and Aleutian			All Alaska		
	Catcher Vessels	Catcher process	Total	Catcher Vessels	Catcher process	Total	Catcher Vessels	Catcher process	Total
2000									
All gear	.10	.69	.10	.38	1.13	.45	.17	1.40	.19
H & L	.07	.52	.07	.03	1.33	.22	.07	1.48	.09
Pot	.08	.31	.08	.09	.34	.12	.09	.41	.10
Trawl	.27	1.43	.31	.92	1.23	.93	.67	1.88	.71
Oth. & unk.	.00	-	.00	-	-	-	.00	-	.00

Note: Includes only vessels that fished part of Federal TACs.
Categories with fewer than four vessels are not reported.

Source: Fishtickets, weekly processor reports, product price files, NMSF permits.
National Marine Fisheries Service, P.O. Box 15700, Seattle, WA 98115-0070.

Table 6.8-5 Average revenue of vessels that caught or caught and processed more than \$3.5 million ex-vessel value or product value of groundfish by area, catcher type and gear, 1996-2000. (\$ millions)

	Gulf of Alaska		BSAI		All Alaska	
	Catcher	Total	Catcher	Total	Catcher	Total
	process		process		process	
1996						
All gear	.97	.97	9.24	9.24	9.75	9.75
H & L	.81	.81	3.69	3.69	4.05	4.05
Trawl	.99	.99	10.18	10.18	10.72	10.72
1997						
All gear	.76	.76	10.09	10.09	10.37	10.37
H & L	.60	.60	3.98	3.98	4.28	4.28
Trawl	.80	.80	11.11	11.11	11.39	11.39
1998						
All gear	.70	.70	8.30	8.30	8.61	8.61
H & L	.33	.33	4.40	4.40	4.51	4.51
Trawl	.80	.80	9.55	9.55	9.91	9.91
1999						
All gear	.91	.91	9.56	9.56	9.99	9.99
H & L	.56	.56	4.00	4.00	4.34	4.34
Trawl	1.24	1.24	12.81	12.81	13.29	13.29
2000						
All gear	1.16	1.16	10.11	10.11	10.64	10.64
H & L	.91	.91	4.27	4.27	4.71	4.71
Trawl	1.38	1.38	14.22	14.22	14.80	14.80

Notes: Includes only vessels that fished part of Federal TACs.

Categories with fewer than four vessels are not reported.

Source: Fishtickets, weekly processor reports, NMFS permits, annual processor survey.

National Marine Fisheries Service, P.O. Box 15700, Seattle, WA 98115-0070.

6.9 Impacts on regulated small entities

Impact on cash flow or profitability

As discussed in Sections 4.1 and 5.10, alternatives which lengthen the period of time between a biomass survey year and its associated specifications year have the potential to reduce fish harvests. Some of the modeling results suggest that these costs could amount to a few tens of millions of dollars under Alternative 2, considerably more under Alternative 4, and less under Alternative 3. These results have a high degree of uncertainty associated with them.

Alternatives that reduce the level of harvest from the fisheries would have an adverse impact on the cash flow and profitability for small entities. It is not possible to estimate the magnitudes of these impacts. The models that identify the impacts for the whole fishery do not provide a high level of precision at that level. It is not possible to make any predictions with the available models about the distribution of adverse impacts among vessel classes or large and small entities.

In addition to changes in the average levels of harvests, some of the modeling results suggest that year-to-year fluctuations in groundfish harvests may increase under the Alternatives 2, 3, and 4 compared to Alternative 1. The increase is likely to be largest under Alternative 4, less under Alternative 2, and even less under Alternative 3, and least under Alternative 1. These increased year-to-year fluctuations may result in increased year-to-year variability in gross revenues. This increased variability may result in higher interest rates, higher carrying costs for inventory, and an increased need to borrow money to tide operations over short-term harvest reductions. All of these factors may increase operating costs for small entities. It is impossible to estimate the size of these operating increases.

Does the preferred alternative impose a disproportionate burden on regulated small entities

A preferred alternative has not been selected for this action at this time (September 2002). Regardless, the answer to this question is unknown. As noted, the projections of changes in the mean harvest and in the year-to-year variability of the harvest, and its distribution among fleet sectors are unknown. It is not possible to make definite statements about the impacts on small entities in comparison with those on large entities. For example, while small entities may be less diversified and more vulnerable than large entities to an annual reduced harvest in any one species, some modeling results suggest that a large part of reduced revenues may come from the EBS pollock fishery, which is dominated by large entities. It is not possible to make a definitive statement on whether or not these results will bear disproportionately on small entities.

*Other important impacts*⁵¹

Alternatives 2 and 4, and to a lesser extent Alternative 3, provide better opportunities for analysis, a fuller notice and comment on process, and an improved environment for decision-making. For reasons discussed in Section 5.8, these may improve access to the decision making process for small entities and their representatives and improve small business input into the decision making process. If improvements in notice and comment on proposed rulemaking head off lawsuits that might disrupt fisheries, this would also be a benefit to small entities.

6.10 Recordkeeping and reporting requirements

The IRFA should include “a description of the projected reporting, record keeping and other compliance requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record...”

This regulation does not impose new recordkeeping or reporting requirements on the regulated small entities.

6.11 Federal rules that may duplicate, overlap, or conflict with proposed action

An IRFA should include “An identification, to the extent practicable, of all relevant Federal rules that may duplicate, overlap or conflict with the proposed rule...”

This analysis did not reveal any Federal rules that duplicate, overlap or conflict with the proposed action.

6.12 Description of significant alternatives

An IRFA should include “A description of any significant alternatives to the proposed rule that accomplish the stated objectives of the proposed action, consistent with applicable statutes, and that would minimize any significant economic impact of the proposed rule on small entities.”

The alternatives have been described in detail in Sections 2.1 and 5.5 of this EA/RIR/IRFA. Tables 6.12-1 below lists each alternative, indicates its impact on directly regulated small entities (so far as is known) and describes why the alternative was not chosen. The “Why not chosen...” column for Alternatives 2 and 3 will be completed when a preferred alternative is selected.

⁵¹The following non-adverse impacts are introduced to provide a full summary of the impacts on small regulated entities. There is no implication that do, or do not, offset the adverse impacts.

Table 6.12-1 Alternatives subjected to detailed study

Alternative		Description	Impact on directly regulated small entities	Why not chosen if better for directly regulated small entities?
Alt 1		Publish proposed specifications, followed by interim and final specifications	This is the status quo and the baseline scenario. This alternative is the most constraining of the alternatives with respect to small business access to the decision-making process. It is likely to be associated with somewhat larger harvests than other alternatives, and thus somewhat higher average revenues for small entities.	No preferred alternative at this time
Alt 2	Opt 1	Eliminate interim specifications. Issue proposed and final specs. Prior to start of fishing year.	These two options improve opportunities for small business access to the decision making process. The two options for this alternative may be associated with reductions in groundfish harvests and with increased year-to-year variation in harvests. These changes would reduce small entity revenues, but it is not clear if there would be a disproportionate impact on small entities.	No preferred alternative at this time
	Opt 2	Eliminate interim specifications. For GOA and BSAI target species on a biennial survey schedule set harvest specs biennially. Remaining species on annual harvest spec. schedule		No preferred alternative at this time
Alt 3	Opt. 1	Use status quo time line. Eliminate interim specs. Issue proposed and final specs. Begin fishing year in July. Sable fish remain on a 1/1-12/31 schedule.	Alternative 3 will shift the start of the fishing year until after the current beginning of the halibut and sablefish individual quota (IFQ) fisheries in the GOA and the BSAI. . Either preliminary IFQs would have to be issued prior to the fishery and updated after the fishery began (reducing many of the benefits of an IFQ program) or disruptive regulatory actions would have to be taken to change the halibut and sablefish IFQ fishing seasons. Option 1 would eliminate this problem	No preferred alternative at this time
	Opt. 2	Fishing year on 7/1-6/30 schedule. December Council meeting rescheduled for January		
Alt 4	Opt 1	Use stock assessment projections for biennial harvest specs. Set PSC limits annually.	These two options will improve opportunities for small business access to the decision making process. The two options for this alternative are associated with the larger potential reductions in harvests than Alt 2, and with more potential year-to-year variation in harvests. The changes would reduce small entity revenues, but it is not clear if there would be a disproportionate impact on small entities.	No preferred alternative at this time
	Opt 2	Use stock assessment projections for biennial harvest specs. Set PSC limits every two years.		No preferred alternative at this time
Notes: A more detailed discussion of the impacts on small entities may be found in Section 6.9 of this EA/RIR/IRFA.				